

Jurisprudence, to whom was referred S. B. No. 100, A bill to be entitled "An Act to amend Article 6645, Title 115, Chapter 14, of the Revised Statutes of 1911 of the State of Texas, so as to abolish the defense of assumed risk as a bar to recovery in any suit against any corporation, receiver or person operating any railroad, street railway or interurban railway in this State for damages for death or for personal injuries to employes thereof, and further defining and regulating the doctrine of contributory negligence in such cases, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, with the following committee amendment:

Amend S. B. No. 100 by striking out the words "person employed by such corporation, receiver or person," at the end of the first paragraph of the proposed Article 6645 and insert therein the following: "Employe or servant of such person, corporation or receiver; it being contemplated that while the employe does assume the ordinary risk incident to his employment he does not assume the risk resulting from any negligence on the part of his employer, though known to him."

BAILEY, Chairman.

(Majority Report.)

Committee Room,
Austin, Texas, Feb. 11, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, the Committee on Privileges and Elections, to whom was referred the contest filed by Reno Eickenroht, contesting the election of C. F. Richards as Senator from the Twenty-first Senatorial District of Texas, having had the same under consideration and after having fully considered the said contest and the demurrer and exceptions filed thereto by the contestee, and having heard both parties thereto, adopted a resolution that same be sustained, and I am directed to return said contest and all papers pertaining thereto to the Senate of Texas with the recommendation that said demurrer and exceptions be in all things sustained, and that said contest be dismissed.

Respectfully submitted,
COUSINS, Vice Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, Feb. 11, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: I, a minority of your Committee on Privileges and Elections, to whom was referred the contest filed by Reno Eickenroht, contestant, vs. C. F. Richards, contestee, from the Twenty-first Senatorial District of Texas, have had the same under consideration, and after having heard and considered the demurrers and exceptions filed thereto by the contestee, I beg leave to report same back to the Senate with the recommendation that said demurrers and exceptions so filed, heard and considered be, in all things, overruled, and that the contestant be instructed to proceed with his case by the introduction of evidence in support of his petition and that the committee proceed to hear all of said evidence by both parties.

I believe that it is unfair to the Democrats of Texas and to the voters of the Twenty-first Senatorial District to deny to them the right to have the names of the candidates for the Senate from their district properly and legally printed upon all the ballots used at the general election.

Respectfully submitted,
MURPHY.

Senate Chamber,
Austin, Texas, Feb. 17, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 237 carefully compared and find same to be correctly engrossed.

HARP, Chairman.

Senate Chamber,
Austin, Texas, Feb. 17, 1921.
Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 189 carefully compared and find same to be correctly engrossed.

HARP, Chairman.

TWENTY-NINTH DAY.

Senate Chamber,
Austin, Texas,
Friday, Feb. 18, 1921.
The Senate met at 10 o'clock a. m. pursuant to adjournment, and was

called to order by President Pro Tempore Page.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	McNealus.
Baugh.	Murphy.
Carlock.	Page.
Darwin.	Parr.
Davidson.	Rogers.
Dudley.	Suiter.
Fairchild.	Watts.
Floyd.	Witt.
Hall.	Wood.
Harp.	Woods.
Lewis.	

Absent.

Bledsoe.	Richards.
Cousins.	

Absent—Excused.

Buchanan.	McMillin.
Clark.	Russell.
Dorough.	Williams.
Hertzberg.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator McNealus.

The Chair called the regular morning call and there being no business, announced the conclusion of the morning call.

Senate Bill No. 46.

The Chair laid before the Senate on second reading, and special order for this hour.

S. B. No. 46, A bill to be entitled "An Act regulating the employment of women and minors, creating and establishing an Industrial Welfare Commission; providing for their appointment by the Governor; fixing their salaries; authorizing the Commission to employ a secretary and other employes necessary to enforce the Act and fixing their salaries; defining the duties of the Commission and prescribing certain duties of persons, firms or corporations employing women and minors; prescribing and fixing the powers of the Commission; prohibiting the discharge, intimidation or discrimination against employers who may testify before or furnish the Commission with information and providing penalties therefor; providing for prosecution for

violation of the Act and the orders of the Commission; prescribing the manner for a review of any order, finding or determination of the Commission; conferring the right of civil action by employes who are paid less than the minimum wage fixed by the Commission; prescribing the manner in which complaints may be registered with the Commission; defining the persons to whom the Act shall apply; making an appropriation to carry out the purposes of the Act; providing for the repeal of all laws or parts of laws in conflict with the Act, and declaring an emergency."

The bill was read second time and action occurred on the committee report, which recommended a committee substitute for the bill.

Senator Murphy moved to adopt the committee report, which motion was adopted.

Senator McNealus offered the following amendment:

Amend Committee Substitute for Senate Bill No. 46, page 1, by striking all after the words "to be entitled," in line 5, and add the following:

(1) An Act to amend Chapter 160 of the Acts of the Regular Session of the Thirty-sixth Legislature of the State of Texas, approved April 3rd, 1919, the same being An Act regulating the employment of women and minors and establishing a Board of Industrial Welfare to investigate and deal with such employment, including the fixing of a minimum wage, providing for an appropriation therefor, and fixing penalties for the violation thereof and declaring an emergency; by providing for the appointment of a Board of Industrial Welfare; defining their powers and duties; fixing their salaries, and fixing penalties for the violation thereof, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

That Chapter 160 of the Acts of the Regular Session of the Thirty-sixth Legislature of the State of Texas, approved April 3rd, 1919, be so amended as to hereafter read as follows:

Section 1. The district judges residing in each congressional district of this State may and shall upon petition of resident citizens of said district, convene at the court house of the county in said congressional district containing the

largest population as shown by the last United States Census report—on the Tuesday, in the month of A. D. 1921, and every two years thereafter, and appoint a Board of Industrial Welfare for said congressional district. At said meeting three-fourths of all district judges residing in said district shall constitute a quorum to transact business, and a majority of all said judges in said district shall be required for the selection of each member of said Board of Industrial Welfare.

The names and residences of each member of said Board of Industrial Welfare so selected shall by said district judges be certified to the district clerk of each county in said congressional district, who shall file and record same in the book in which the civil minutes of the district court of said county are recorded.

The representative of the general public shall possess the qualifications now required by law of a district judge.

The representative of the general public shall be chairman of said Board, which shall be known as the Board of Industrial Welfare.

The entire membership of said Board shall be required to constitute a quorum to transact business, but the concurrence of two members only shall be necessary to determine any question.

Upon the filing with the Comptroller of Public Accounts of this State of sworn accounts by the members of said Board of Industrial Welfare, approved by a judge of the district court of the county in which the member of said Board of Industrial Welfare resides, same shall be paid upon warrants issued by him upon and under the same provisions of law now provided for the paying of sheriff's accounts.

Sec. 2. The duties of said Board of Industrial Welfare shall be as follows:

Whenever a complaint is filed with said Board of Industrial Welfare, or any member thereof, charging that any person, firm or corporation within the county for which said Board of Industrial Welfare was appointed, is employing any female or minor at a wage inadequate to supply such female or minor the necessary cost of living, and to maintain the health and welfare of such female or minor; or who is requiring such female or

minor to work under conditions that are injurious to the health or morals of said female or minor, it shall be the duty of said Board of Industrial Welfare to ascertain wages paid and the conditions of labor and employment of said female or minor so employed, and to make investigation into the comfort, health, safety and welfare of said female or minor.

Sec. 3. It shall be the duty of the person, firm or corporation employing such female or minor upon request of the Board of Industrial Welfare, or any member thereof:

(a) To furnish said Board of Industrial Welfare any and all reports and information which said Board may require pertaining to the working conditions and wages paid said female or minor, and to carry out the purpose of this Act; such reports and information to be verified by the oath of the person, or a member of the firm, or the president, secretary or manager of the corporation furnishing the same, if and when requested by the Board of Industrial Welfare, or any member thereof.

(b) To permit any member of the Board of Industrial Welfare free access to the place of business of employment of such person, firm or corporation for the purpose of making any investigation authorized by this Act relating to the working conditions and wages paid to such female or minor.

(c) For the purposes of this Act a minor is defined to be a person of either sex under fifteen (15) years of age.

Sec. 4. Whenever any complaint as provided for herein has been filed with said Board of Industrial Welfare, it shall specify the time and place for a hearing upon said complaint, at which time the employer, employe and all other interested persons, including their attorneys, may appear, and be heard upon the matter under investigation.

The said Board of Industrial Welfare shall make reasonable and proper rules of practice and procedure by which it shall be governed.

Sec. 5. The Board of Industrial Welfare after hearing upon said petition or complaint shall fix:

(a) A minimum wage to be paid said female or minor engaged in such occupation, trade or industry according to the character of the female or minor, her or its living conditions and living costs, which shall

not be less than a wage adequate to supply such female or minor the necessary cost of proper living and to maintain the health and welfare of such female or minor.

(b) The standard conditions of labor demanded by the health and welfare of such female or minor engaged in said occupation, trade or industry, based upon the character, living conditions and living costs of said female or minor. Upon the fixing of said wage or conditions of labor by said Board of Industrial Welfare, the person, firm or corporation, together with the female or minor affected thereby, shall be served with a certified copy of such order, and such orders so made shall be effective ten (10) days from and after the service of such certified copy; provided, however, that in any cases affecting the living conditions of such female or minor, the Board of Industrial Welfare may by order extend the time when such order shall become effective.

The Board of Industrial Welfare shall also file with the clerk of the district court of said county a copy of all their orders, judgments and decrees entered upon any and all hearings had upon such petition or complaint.

Sec. 6. The minimum wage for such female or minor fixed by said Board of Industrial Welfare as provided in this Act, shall be the minimum wage paid to such employe, and the payment to such employe of a less wage than the minimum wage so fixed shall be unlawful, and every employer or other person who either individually or as an officer, agent or employe of a corporation, or other person, pays, or causes to be paid to such employe a wage less than such minimum, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than Ten (\$10) Dollars, or more than One Hundred (\$100) Dollars, or by imprisonment for thirty (30) days in the county jail, or by both such fine and imprisonment.

Sec. 7. In every prosecution for the violation of any provisions of this Act, the minimum wage established by the Board of Industrial Welfare, as herein provided, shall be presumed to be reasonable and lawful, and to be a living wage required herein to be paid to said female or minor, provided, however, that the findings of

said Board of Industrial Welfare shall be subject to review in the following manner:

Any person, firm or corporation affected by such order, judgment or decree of said Board of Industrial Welfare shall have the right at any time to file his petition in the district or county court of said county; citation shall be served upon the chairman of the Board of Industrial Welfare; whereupon a trial of all matters and things entered into said judgments, orders and decrees shall be tried de nova in said court, and said court shall enter such proper judgments as in its discretion may be found to be reasonable, right and fair, from which judgment appeal may be prosecuted to the Court of Civil Appeals, to which said Court it is returnable; but the judgment of said Court of Civil Appeals shall be final.

Precedence shall be given to all causes of this character in both the district and Court of Civil Appeals over all other causes of a different nature.

Sec. 8. Said Board of Industrial Welfare in fixing the minimum wage for any female or minor who is a beginner, apprentice or learner, shall fix same at a wage of at least thirty-three and one-third (33 1/3 %) per cent for the first six months, and twenty-four (24 %) per cent for the second six months less than the minimum wage paid to experienced female or minor employee engaged in such occupation, trade or industry, in like service, who have had one year or longer experience in the same line of work.

Said Board of Industrial Welfare shall be authorized to fix a less wage than that paid to experienced workers where the female or minor is an aged, crippled, defective or deficient employe.

Sec. 9. The fact that there is no adequate law in this State providing for a minimum wage for female or minor employes, and the fact that their welfare demands suitable and immediate legislation, creates an emergency and an imperative public necessity, requiring that the constitutional rule requiring bills to be read on three several days, be suspended, and same is hereby suspended, and that this Act shall take effect from and after its passage, and it is so enacted.

Pending discussion Senator Mc-

Nealus secured unanimous consent to offer the following proposed amendments to the amendment, offered by him and unacted on: (Note: The following amendments, to amendment No. 1, were acted on severally, and in order.)

(1) Amend the amendment to Committee Substitute for Senate Bill No. 46, page 1, line 21, by striking out the words "May and"; also the words in same line, "upon petition of"; also, in line 22, page 1, strike out the words, "resident citizen of said district."

(2) Amend Committee Substitute for Senate Bill No. 46, line 25, page 1, by striking out the first blank (.....) and inserting the word "first," and striking out the second blank (.....) in same line, same page, and insert the word "May."

(3) Amend Committee Substitute for Senate Bill No. 46, by adding at the end of the first paragraph to Section 1, line 31, the following: "The Board of Industrial Welfare hereby created shall consist of three members, one of whom shall be selected by and represent the female and minor employees, the second to be selected by and recommended by the employers of female and minor employees and the third to be named by the Board of District Judges, as herein provided for, to represent the general public."

(4) Amend Committee Substitute for Senate Bill No. 46, Section 3, page 3, Subdivision (b), line 12, after the word "access," by inserting the words, "to the books and records and".

(5) Amend Committee Substitute for Senate Bill No. 46, Section 4, page 3, line 23, by striking out the period and inserting a semicolon and the following words: "such hearing to begin not later than one week after the filing of such complaint."

(6) Amend the amendment to Committee Substitute for Senate Bill No. 46 by striking out the word "character," in section 5, page 4, line 4.

(7) Amend the amendment to Committee Substitute for Senate Bill No. 46, after the word "copy," in Section 5, page 4, line 10, strike out the semicolon and insert a period. Strike out all the words in line 10 after the word "copy," and strike out all the lines 11, 12 and 13.

(8) Amend the amendment to

Committee Substitute for Senate Bill No. 46 by striking out the words "or learner," at the end of line 20, Section 8, page 5, and insert the word "or" in front of "apprentice," in the same line, and by placing a comma after the word "apprentice."

(9) Amend the amendment to Committee Substitute for Senate Bill No. 46 by adding after Section 8, a new section to be known as Section 9, and number the present section 9, Section 10:

Section 9. The members of the Board of Industrial Welfare for any Congressional District shall receive compensation for their services at the rate of ten dollars per day and their necessary traveling and other expenses for not to exceed ten days' service in any two years, except in cases of special meetings to hear complaints, as provided for in this Act. Such compensation and expenses to be paid for as provided in the last paragraph in Section 1.

Bills and Resolutions.

(By Unanimous Consent.)

By Senators Carlock and Davidson:

S. B. No. 270, A bill to be entitled "An Act requiring every person driving a motor vehicle or motorcycle, when approaching the intersection of any public street or highway with the track of any steam railroad or inter-urban railroad, when said street or highway crossed such track at grade, to bring such vehicle to a full stop at not less than fifteen feet nor more than fifty feet from the place of crossing, and to look and listen for approaching trains before proceeding across such crossing; providing that this act shall not apply to intersections within incorporated cities and towns having 10,000 or more inhabitants according to the last United States census, nor to crossings over which not more than two trains each way are run daily; nor shall this Act apply to a crossing where the view of the tracks for a distance of at least two hundred (200) yards on either side of such crossing is clear and unobstructed to a person approaching the same at a distance of one hundred (100) feet from such crossing; making it a misdemeanor to violate this Act and providing punishment therefor; providing that contributory neg-

ligence of persons injured at such crossings shall not defeat recovery and that damages shall be diminished in proportion to amount of negligence attributable to such person; providing for the repeal of Section 17 of Chapter 207 of the General Laws of the Regular Session of the Thirty-fifth Legislature, as officially published, relating to the reduction of the speed of motor vehicles and motorcycles when approaching the intersection of public streets or highways with the track of steam railroads or interurban railroads under circumstances therein mentioned and for the repeal of so much of Chapter 31 of the officially published General Laws of the First Called Session of the Thirty-fifth Legislature and so much of Chapter 13 of the officially published General Laws of the Third Called Session of the Thirty-fifth Legislature as make it a misdemeanor to violate said Section 17 of said Chapter 207 of the General Laws of the Thirty-fifth Legislature and prescribing punishment therefor; authorizing peace officers to make arrests for violations of this Act committed within their view or presence; and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Fairchild:

S. B. No. 271, A bill to be entitled "An Act to provide that attorneys at law shall have a lien upon all claims or demands, including all claims for unliquidated damages, put into their hands by others for collection or suit, or upon which suit has been instituted, for the amount of any fee which may have been agreed upon by the parties, or in the absence of an agreement, for a reasonable fee for the services of such attorneys, and that if the action is prosecuted to recovery, the attorneys representing the parties procuring such judgment shall have a lien upon the judgment for their attorneys' fees; judgments when procured only for the legal court costs in case are exempted from the provisions of this Act; providing, further, that if the records of the courts where any such suit is instituted disclose the names of the attorneys representing the parties bringing the suit, or if the parties owing the debt, or interested therein, otherwise have notice that such claim or demand has been placed in the hands of such attorney for collection or suit, the defendant in the suit, or

others interested therein, or if suit is not brought thereon, the party owing the debt and having such notice, shall be deemed to have had notice of the attorneys' fees due thereon, and of the lien existing in favor of such attorneys securing the same, and such attorneys may collect such fees from said parties in the same manner as other debts of a similar nature are collected, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Suiter:

S. B. No. 272, A bill to be entitled "An Act to amend Chapter 14, Article 2781, Revised Civil Statutes of 1911, as amended by Chapter 27, Acts of the Third Called Session of the Thirty-sixth Legislature, relating to the salaries of teachers so as to change the provision as to districts levying a local tax, validating contracts heretofore made, and declaring an emergency."

Read first time and referred to Committee on Education.

By Senator Richards:

S. B. No. 273, A bill to be entitled "An Act to amend Sections 1 and 7 of Chapter 13 of the Special Laws of the Twenty-ninth Legislature, creating a more efficient road system for Caldwell County, Texas, making the County Commissioners of said county ex-officio road supervisors, prescribing their duties, providing compensation for their services and designating the funds out of which said compensation is to be paid, and requiring that they give bond; providing the length of time road overseers may be worked on the public road and fixing the compensation which may be paid said overseers for overtime; and declaring an emergency."

Read first time and referred to Committee on Judicial Districts.

By Senator Parr:

S. B. No. 274, A bill to be entitled "An Act creating the Sharpland Independent School District, situated in Hidalgo County, out of territory situated in the McAllen Independent School District; defining its metes and bounds, conforming the boundaries of the McAllen Independent School District thereto; vesting said created district with the rights, powers, privileges, and duties of a town or village incorporated under the general law for school purposes only; providing for a Board of Trustees to manage and con-

trol the public free schools within said district, vesting in said Board all the rights, powers, privileges and duties conferred and imposed by the general law of this State upon the Trustees of independent school districts, and declaring an emergency."

Read first time and referred to Committee on Education.

By Senator Dudley:

S. B. No. 275, A bill to be entitled "An Act to amend Article 634 of the Penal Code by adding two sections thereto, defining an able-bodied person within the meaning of said article, and providing that a person who has the ability to hear and speak and who pretends that he is deprived of these faculties shall be punishable for vagrancy, and declaring an emergency."

Read first time and referred to Committee on Criminal Jurisprudence.

Senate Bill No. 46.

Action recurred on the pending business, Senate Bill No. 46, and

Pending discussion, Senator Richards moved that the further consideration of this bill (S. B. No. 46) and amendments be postponed until next Tuesday morning, following the conclusion of the morning call.

Pending discussion, Senator Parr asked unanimous consent to suspend the pending business and take up a bill, but there was objection, and

Senator Parr moved to suspend the pending business and take up another bill, but the motion was held out of order in lieu of the pending motion by Senator Richards.

Senator McNealus moved to table the motion by Senator Richards and the motion was lost by the following vote:

Yeas—11.

Carlock.	Parr.
Cousins.	Rogers.
Dudley.	Suiter.
Lewis.	Witt.
McNealus.	Wood.
Murphy.	

Nays—11.

Bailey.	Harp.
Baugh.	Page.
Davidson.	Richards.
Fairchild.	Watts.
Floyd.	Woods.
Hall.	

Absent.

Bledsoe.	Russell.
Darwin.	

Absent—Excused.

Buchanan.	Hertzberg.
Clark.	McMillin.
Dorough.	Williams.

Action recurred on the motion by Senator Richards, and the same was lost by the following vote:

Yeas—11.

Bailey.	Harp.
Baugh.	Page.
Davidson.	Richards.
Fairchild.	Watts.
Floyd.	Woods.
Hall.	

Nays—11.

Carlock.	Parr.
Cousins.	Rogers.
Dudley.	Suiter.
Lewis.	Witt.
McNealus.	Wood.
Murphy.	

Absent.

Bledsoe.	Darwin.
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Absent—Excused.

Buchanan.	McMillin.
Clark.	Russell.
Dorough.	Williams.
Hertzberg.	

Action then recurred on the amendment to the bill.

Message from the House.

Hall of the House of Representatives,
Austin Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 324, A bill to be entitled "An Act authorizing the Polytechnic Heights Independent School District No. 42 of Tarrant County to levy and collect taxes, for issuance of bonds to the amount not to exceed fifty cents on the one hundred dollar valuation, declaring an emergency, and the repeal of all laws conflicting with any part of this Act."

H. B. No. 241, A bill to be entitled "An Act to repeal Chapter 60 of the Local and Special Laws of the Regular Session of the Thirty-sixth Legislature, approved March 13, 1919, creating a special road system for Falls County, and declaring an emergency."

S. B. No. 170, A bill to be entitled "An Act to incorporate the Hebronville Independent School District, Jim Hogg County, Texas, placing the said independent school district under the General Statutes governing school districts incorporated for school purposes only, under the General Laws of Texas; providing for a Board of Trustees therefor; providing for the assumption and refunding by the said Hebronville Independent School District as herein defined of the bonded and other indebtedness of Common School District No. 1 of Jim Hogg County, Texas, providing for the payment by the Hebronville Independent School District of the pro rata share of the bonded indebtedness of the Benavides Independent School District and validating said obligation; providing for Commissioners to fix said pro rata share of said bonded indebtedness; and expenses of said Commissioners; repealing all laws in so far as they might conflict herewith, and creating an emergency."

H. B. No. 317, A bill to be entitled "An Act authorizing the Commissioners' Court of Scurry County to validate the sale of a certain block of land in the town of Snyder, in this State, known as Block 25, and shown on the recorded plat of the original town of Snyder, in Scurry County, of record in Book 1, at page 358, of the deed records of said county; authorizing the Commissioners' Court of said county to execute a deed of confirmation, without the necessity of public advertisement and public sale, and declaring an emergency."

H. B. No. 327, A bill to be entitled "An Act to amend Section 3 of Chapter 91 of the General Laws of the State of Texas, passed by the Thirty-fifth Legislature at its Regular Session, to fix the time for holding the terms of the District Court in the various counties composing the Eighty-first Judicial District of Texas; to repeal all laws and parts of laws in conflict with this Act."

The House grants the request of the Senate for the return of H. B. No. 34.

Respectfully submitted,

N. K. BROWN,

Chief Clerk House of Representatives.

Bills Read and Referred.

The Chair, President Pro Tem Page, had referred, after their captions had been read, the following House bills:

H. B. No. 324, referred to Committee on Educational Affairs.

H. B. No. 241, referred to Committee on Roads, Bridges and Ferries.

H. B. No. 317, referred to Committee on Public Lands and Land Office.

H. B. No. 327, referred to Committee on Civil Jurisprudence.

Recess.

On motion of Senator McNealus the Senate, at 12 o'clock noon, recessed until 3 o'clock today.

After Recess.

The Senate was called to order by President Pro Tem Page.

Senate Bill No. 46.

Action recurred on the pending business, S. B. No. 46, the question being on the pending amendments by Senator McNealus; the first action being on the amendments to the amendment.

Amendment No. 1 to Amendment 1 was adopted.

Amendment No. 2 to Amendment 1 was adopted.

Amendment No. 3 to Amendment 1 was adopted.

Amendment No. 4 to Amendment 1 was tabled.

Amendment No. 5 to Amendment 1 was lost.

Amendment No. 6 to Amendment 1 was adopted.

Amendment No. 7 to Amendment 1 was adopted.

Amendment No. 8 to Amendment 1 was adopted.

Amendment No. 9 to Amendment 1 was adopted.

Senator Davidson offered the following amendment to Amendment No. 1:

Amend S. B. No. 46 (167), page 2, Section 1, line 6, by adding thereto the following: The District Judges when assembled, are empowered and authorized to make and promulgate rules and regulations by which each of the three representatives of the said Board of Industrial Welfare shall be selected.

The amendment to the amendment was lost.

Action then recurred on the amendment, as amended, and the same was lost by the following vote:

Yeas—10.

Bailey.	Hall.
Baugh.	Harp.
Darwin.	Lewis.
Davidson.	McNealus.
Floyd.	Parr.

Nays—11.

Bledsoe.	Suiter.
Dudley.	Watts.
Murphy.	Witt.
Page.	Wood.
Richards.	Woods.
Rogers.	

Absent.

Fairchild.

Absent—Excused.

Buchanan.	McMillin.
Clark.	Russell.
Dorough.	Williams.
Hertzberg.	

(Pair Recorded.)

Senator Carlock (present), who would vote yea, with Senator Cousins (absent), who would vote nay.

Action then recurred on the C. S. for S. B. No. 46 and Senator Witt offered the following amendment:

Amend S. B. No. 46 by adding after Section 9 the following and renumbering:

Sec. 10. The provisions of this Act shall not apply to domestic servants, nor to agricultural or ranch employes, nor to the employes in any occupation, trade or industry where no more than five women or minors are employed.

WITT,
WOOD,
DARWIN.

Senator Murphy offered the following amendment to the amendment:

Amend amendment by striking out the following: "Nor to the employes in any occupation, trade or industry where no more than five women and minors are employed."

On motion of Senator Witt the amendment to the amendment was tabled.

The amendment was then adopted.

Senator Darwin offered the following amendment:

Amend S. B. No. 46, page 1, by

striking out all of Section 1 after the word "Commission" where it first appears and insert in lieu thereof the following: "The Industrial Accident Board shall constitute said Commission."

DARWIN,
WITT.

Pending discussion, the amendment was read and adopted.

Senator Floyd offered the following amendment:

Amend the bill at the close of Section 16 by adding a new section to be known as Section 17 and renumbering the following sections to conform:

Sec. 17. It is provided that the provisions of this Act shall not apply to cities and towns of this State of five thousand population or less.

The amendment was read and Senator Witt, after discussion, moved to table same, which motion to table was lost by the following vote:

Yeas—11.

Bledsoe.	Rogers.
Davidson.	Suiter.
Fairchild.	Watts.
Harp.	Witt.
Murphy.	Wood.
Page.	

Nays—11.

Bailey.	Hall.
Baugh.	Lewis.
Carlock.	Parr.
Darwin.	Richards.
Dudley.	Woods.
Floyd.	

Present—Not Voting.

McNealus.

Absent.

Cousins.

Absent—Excused.

Buchanan.	McMillin.
Clark.	Russell.
Dorough.	Williams.
Hertzberg.	

Action recurred on the amendment and the same was adopted by the following vote:

Yeas—11.

Bailey.	Hall.
Baugh.	Harp.
Carlock.	Lewis.
Darwin.	Parr.
Dudley.	Richards.
Floyd.	

Nays—9.

Bledsoe.	Rogers.
Davidson.	Watts.
Fairchild.	Witt.
Murphy.	Wood.
Page.	

Present—Not Voting.

McNealus. Suiter.

Absent.

Cousins.

Absent—Excused.

Buchanan.	McMillin.
Clark.	Russell.
Dorough.	Williams.

(Pair Recorded.)

Senator Woods (absent), who would vote yea, with Senator Hertzberg (absent), who would vote nay.

Senator Hall here offered the following amendment:

Amend S. B. No. 46 by striking out all after the enacting clause and insert in lieu thereof the following:

Section 1. There is hereby created a commission to be composed of three commissioners, which shall be known as the Industrial Welfare Commission. The word "commission" hereinafter used refers to and means said Industrial Welfare Commission, and the word "commissioner" as hereafter used refers to and means a member of the Industrial Welfare Commission. Said Commissioners shall be the same as those now composing the Industrial Accident Board of this State and hereafter the Governor of this State in making appointments to said Industrial Accident Board shall, as far as possible consistent with the law creating said Industrial Accident Board, observe the following rules to-wit: One of said Commissioners shall be appointed for a term of two years, one for a term of four years and one for a term of six years; thereafter, the term of office of each of said Commissioners shall be six years. The Governor shall designate the terms of each of said three first appointees. Each Commissioner shall hold office until his successor is appointed and qualified. Vacancies that may occur in the membership shall be filled by appointment by the Governor for the unexpired portion of the term in which such vacancy occurs.

Quorum of said Commission is hereby declared to be the full membership thereof, but the act or decision of any two Commissioners shall be deemed the act or decision of the Commission. In the event a vacancy should occur then the two remaining Commissioners shall constitute a quorum.

The Governor shall so select and appoint said Commissioners so that at all times one of said Commissioners shall be a representative of the employing class, and one of said Commissioners shall be a representative of the employe class, and the third of said Commissioners shall be a representative of the general public. The representative of the general public so appointed shall possess the qualifications now prescribed by law for a district judge in the State of Texas.

Each of said Commissioners shall be an actual bona fide resident citizen of the State of Texas for five years next preceding the date of his appointment; that each of said Commissioners shall take and subscribe to the same oath of office as is provided by the Constitution for the Governor of this State, and whose appointment shall date from the time copy of said oath is filed in the office of the Secretary of State; the Chairman of said Commission shall be the representative of the general public.

The Commission may, until otherwise provided by the Legislature, employ a Secretary, stenographers and one Assistant Secretary and not to exceed six investigators, to carry out the purposes of this Act, and shall fix the compensation of such employes at not to exceed the sum of twenty-four hundred (\$2,400) dollars per annum, together with all necessary traveling expenses for said employes; each of said salaries shall be paid in equal monthly installments.

When said Industrial Accident Board performs the duties imposed hereby it shall be known as the Industrial Welfare Commission and be governed by the rules and provisions hereof.

Provided, the Legislature may from time to time in making appropriations for the Industrial Accident Board and the Industrial Welfare Commission as herein provided for, limit or increase the number of employes and fix and regulate their salaries.

Sec. 2. It shall be the duty of the Commission to ascertain the wages

paid, the conditions of employment in the various occupations, trades and industries in this State, and to make investigations into the comfort, health, safety, cost of living and welfare of women and minors employed in commercial, industrial, mercantile or other occupations.

Sec. 3. It shall be the duty of every person, firm, corporation or association of persons, employing women or minors in this State: To furnish the Commission, at its request, any and all reports or information which the Commission may require pertaining to the working conditions and wages paid women and minors to carry out the purposes of this Act; such reports or information to be verified by the oath of the person, or a member of the firm, or the president, secretary or manager of the corporation furnishing same, if and when requested by the Commission or any member thereof, provided the blanks for reports required under the provisions of this Act shall be supplied by the Commissioners.

Sec. 3a. For the purposes of this Act, a minor is defined to be a person of either sex under the age of fifteen years.

Sec. 4. The Commission may specify times and places to hold public hearings, at which times and places employers, employes and interested persons may appear and give testimony as to the matter under consideration. The Commission or any member thereof, shall have power to subpoena witnesses, issue subpoenas duces tecum and compel the production before the Commission of any and all books and records desired by the Commission, and to administer oaths. All witnesses subpoenaed by the Commission shall be paid the fee and mileage provided by law in civil cases. In case of the failure or refusal on the part of any person to comply with any order of the Commission or any member thereof, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated before the Commission or any member thereof, or before any duly authorized representative of the Commission, it shall be the duty of any district judge or court to whom application is made by the Commission or any member thereof, or by any duly authorized representative of the Commission, to compel obedience in the same manner, by con-

tempt proceedings or otherwise, that such obedience would be compelled in a proceeding before said court. The Commission shall have power to make and enforce reasonable and proper rules not inconsistent with this Act, and shall not be bound by technical rules of evidence.

Sec. 4a. The Commission shall have further power, after a public hearing before the Commission or any member thereof, and upon its own motion or upon petition, to fix:

1. A minimum wage to be paid women and minors engaged in any occupation, trade or industry in this State, which shall not be less than a wage adequate to supply such women and minors the necessary cost of proper living, and to maintain the health and welfare of such women and minors.

2. The standard conditions of labor demanded by the health and welfare of the women and minors employed or engaged in any occupation, trade or industry in this State.

3. To divide the State into districts or zones as nearly as may be in accordance with the working conditions and cost of living found in the various sections of the State, and may fix a different minimum wage for women and minors when in their judgment the conditions existing in the zones or districts demand.

4. To further subdivide the districts or zones by classifying the cities and towns in each district or zone according to population as given in the latest United States census report, and to fix a different minimum wage for each class where the conditions are found to warrant same.

5. A separate or different minimum wage for learners, apprentices and minors from that fixed for experienced female employes, provided that in all cases where an employe is required or permitted to work less than four (4) hours in any one day, the Commission shall have power to fix another additional or different minimum wage for such employe.

In all cases where any female or minor employe does not live at home, or with his or her relatives, the Commission may, upon petition, in its discretion, if the facts warrant, fix another additional or different minimum wage for such employe, which said wage thereafter from time to time may be increased or diminished, based up-

on the actual living cost of said employe.

Sec. 5. Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and acting upon any of the matters referred to in Section 2 hereof, the Commission shall give notice to the public by advertising in at least one newspaper in the county in which the hearing is to be held, and by mailing a copy of said notice to the County Clerk of the county in which the hearing is to be held, which notice shall state the time and place of such hearing to be held, which shall not be earlier than ten days from the date of publishing and mailing such notice.

After such public hearing the Commission may, at its discretion, make a mandatory order to be effective in not less than sixty days from the date of such order, specifying the minimum wage to be paid women and minors in the occupation, trade or industry and the standard conditions of labor for such women and minors, provided, however, that such order may only affect one or more districts or zones as fixed by the Commission.

Such order shall be published in at least two daily newspapers in each district or zone, provided there be that number of such newspapers, and a copy shall be mailed to the County Clerk of each county in the district or zone, and shall be recorded in a suitable record book to be kept by each County Clerk for such purpose, and no charge shall be made for recording same.

The Commission shall furnish to each employer affected, where the address can be obtained, or upon request, a copy of all orders promulgated by the Commission, and such order or orders must be posted by such employer in a conspicuous place in the place of business or employment where women or minors are employed.

Failure of the employer to receive such notice shall not relieve from the duty to comply with such order. Finding by the Commission that there has been such publication and mailing to the County Clerk shall be conclusive to the service.

Sec. 6. Whenever wages or conditions of labor have been so made mandatory in any occupation, trade or industry, the Commission may at any time in its discretion, upon its own motion, or upon petition of either employers or employes, after a public

hearing held upon notice hereinbefore provided, rescind, alter or amend any prior order. Any order rescinding, altering or amending a prior order shall have the same force and effect as herein provided for an original order.

Sec. 7. Any occupation, trade or industry in or for which a minimum wage has been established under the provisions of this Act, the County Judge of the county in which they may reside shall issue to any aged, defective or deficient, or crippled person subject to this Act, a special license authorizing the employment of such person for a period of twelve months (12) for a wage less than such legal minimum wage, which license may be by the County Judge of the county in which such female or minor may reside, at its expiration, renewed for a like period of twelve (12) months.

Sec. 8. Any employer who discharges, or threatens to discharge, or in any other manner discriminates against any employe because such employe has testified, or is about to testify, or because such employer believes such employe may testify in any investigation or proceeding relative to the enforcement of this Act, or who shall violate any of the provisions of Section 3 of this Act, or who shall disregard a lawful, mandatory order of the Commission, shall be deemed guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction shall be punished by a fine of not less than one dollar (\$1.00) nor more than twenty-five dollars (\$25.00) for each first offense and for each subsequent offense not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00), or by imprisonment in the county jail for a period not to exceed six months, or by both such fine and imprisonment.

Sec. 9. The minimum wage for women and minors fixed by the Commission under the provisions of this Act shall be the least wage paid such women and minors, and the payment of a lesser wage in any trade, occupation or industry, except as herein provided, where a minimum has been fixed by the Commission shall subject such employer to the penalties provided in the preceding section. Provided, further, that nothing in this Act shall be construed as preventing any employer of women or minors, in any occupation, trade or industry, from paying a higher wage than the

minimum wage fixed by the Commission in such occupation, trade or industry.

Sec. 10. In every prosecution for violation of the provisions of this Act the minimum wage established by the Commission as herein provided, shall be prima facie presumed to be reasonable and lawful, and to be the living wage required herein to be paid to women and minors. The finding of facts made by the Commission acting within its powers shall, in the absence of fraud, be conclusive, except where appealed from as hereinafter provided; and the determination made by the Commission shall be subject to review only in a manner and on the grounds following: Within thirty days from the date of determination, any party aggrieved thereby may commence action in the district court in and for the county in which the aggrieved party resides, or in the district court of Travis County against the Commission for review of such determination. In such action a complaint which shall state the grounds upon which a review is sought shall be served with the summons; service upon the Secretary of the Commission or upon any member of the Commission, shall be deemed a complete service. The Commission shall file its answer within twenty days after the service of the complaint. The trial in such court shall be in all respects a trial de novo. Upon the setting aside of any determination, order or wage fixed by the Commission, the court trying said cause shall enter such order, judgments and decrees as the court shall find should have been originally made by the Commission. The Commission, or any party, aggrieved by a decree entered upon a review of a determination, may appeal therefrom within the time and in the manner provided for an appeal from the orders of the said district court.

Sec. 11. In all prosecutions for the violation of any provisions of this Act, and in all cases affecting any orders, judgments or decrees made by the Commission, such provisions shall have precedence over all other cases pending in said court of a different nature, and in all cases where an appeal has been taken, said appeal shall have precedence over all other cases of a different nature therein pending.

No criminal prosecution hereunder shall be instituted or maintained for any violation of any provisions of this

Act committed during the pendency of said civil suit.

Sec. 12. Any employe receiving less than the minimum wage applicable to such employe shall be entitled to recover in a civil action, the unpaid balance of the full amount of such minimum wage, together with cost of suit, and an additional amount for attorneys' fees, said fees to be determined by the court, notwithstanding any agreement to work for a lesser wage.

Sec. 13. Any person or persons for whom the Commission may have established a minimum wage may register a complaint with the Commission that the wages paid to her or them are less than the rate fixed by the said Commission, and the Commission shall thereupon investigate the matter and proceed in such manner as is necessary to enforce payment of such established wage under the provisions of this Act.

Sec. 13a. The provisions of this Act shall not apply to domestic servants, nurses, student nurses, farm and ranch labor, and students in schools and colleges, while actually attending such schools and colleges during their session or in vacation and who are working their way through schools and colleges, either in whole or in part; and all telephone exchanges, mercantile establishments of all classes and laundries in cities, towns and villages whose population was 4,950 or less at the last Federal census are hereby exempt from the provisions of this Act.

Sec. 14. The Commission shall make biennial report to the Governor and to the Legislature, covering all business, investigations and determinations of the Commission for the preceding biennial period.

Sec. 15. There is hereby appropriated out of the moneys of the State Treasury, not otherwise appropriated, the sum of four thousand (\$4,000.00) dollars or so much thereof as may be necessary, to be used by the Commission in carrying out the purposes of this Act for the balance of the fiscal year ending August 31, 1921. The Comptroller is hereby directed from time to time to draw warrants upon the presentation of properly itemized, verified and approved vouchers on the general fund in favor of the Commission for the amounts expended under its direction, and the Treasurer is hereby authorized and directed to pay the same.

Sec. 16. Whenever this Act, or any

part or section thereof is interpreted by a court, it shall be liberally construed by such court.

Sec. 17. If any section, subsection, or subdivision of this Act is for any reason held to be unconstitutional, or invalid, such decision shall not affect the validity of the remaining portions of the Act. The Legislature hereby declares that it would have passed this Act, and each section, subsection, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

Sec. 18. All laws or parts of laws in conflict or inconsistent with this Act are hereby repealed.

Sec. 19. The fact that the present minimum wage law is in many respects unworkable, and that there are now hundreds of thousands of women and girls who are forced to work for less than a living wage, which constitutes a serious menace to the physical, mental and moral welfare of society, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Pending the reading of the amendment, Senator Richards moved that the further consideration of the bill be postponed until Tuesday afternoon at 2 o'clock.

Senator McNealus made the point of order that the subject matter of the amendment was, in substance, the same as the Senate voted down today.

The Chair overruled the point of order.

The motion to postpone further consideration until Tuesday afternoon at 2 o'clock was adopted.

Senator Dudley here asked to have the following proposed amendment printed in the Journal and there was no objection:

Amend S. B. No. 46, page 4, Section 4, by striking out all of Subdivisions Nos. 1, 2 and 3 and insert in lieu thereof the following:

(1) The standard conditions of labor demanded by the health and welfare of females and minors engaged in any occupation, trade or industry in this State. Said Commission shall divide the State into zones or districts

according to the kind of employes therein, their living conditions and living costs in said zones or districts, and shall fix a separate and different wage in each of said zones or districts as may be a fair wage in same. After the creation and designation of said zones or districts by said Commission, it shall further fix in each of said zones:

(2) A minimum wage to be paid women and minors engaged in any occupation, trade or industry in this State according to the kind of the employes, their living conditions and living costs, which shall not be less than a wage adequate to supply such females and minors the necessary cost of proper living, and to maintain the health and welfare of such females and minors; provided, however, that there shall be a different minimum wage fixed in said occupation, trade or industry for the employes therein of different classes, according to the actual minimum living costs of each of said classes.

DUDLEY.

Message from the House.

Hall of the House of Representatives,
Austin Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 188, A bill to be entitled "An Act to amend Sections 2, 11, 13, 14, 15, 25 and 30, Chapter 4, of the Special Laws of the Regular Session of the Thirty-fifth Legislature, entitled 'An Act to create a more efficient road law for Llano County, Texas, and to provide for the appointment of a Superintendent of Public Roads, Highways and Bridges for Llano County, and to provide his qualifications, terms of office and salary, defining his duties and powers, and providing for punishment for violation of his duties; providing certain duties and powers of the Commissioners' Court of said county, and fixing the compensation of the Commissioners for inspecting the roads in their respective precincts; providing for the appointment of Road Overseers, defining their duties, fixing their compensation for certain labor, and providing for the punishment for violation of their duties; providing for persons subject to road duty in

Llano County, and persons summoned to work the roads in said county to have the right to be relieved from the discharge of such duties upon the payment of specific sums of money herein stipulated, and providing for the accounting for and disposition to be made of the money so paid, and declaring an emergency."

H. B. No. 266, A bill to be entitled "An Act to amend Section 2, Chapter 6, of the Special Laws of Texas, passed by the Second Called Session of the Thirty-fifth Legislature, at page 39 thereof, approved August 30, 1917, being an Act creating the Alanreed Independent School District in Gray County, Texas, giving the Board of Trustees the power to select and designate the depository for said school district, and declaring an emergency."

H. B. No. 281, A bill to be entitled "An Act creating the Perryton Independent School District in Ochiltree County, Texas; defining its boundaries; providing for a Board of Trustees in said district; conferring upon said district and its Board of Trustees all the rights, powers, privileges and duties now conferred and imposed by the General Laws of Texas upon independent school districts and the Board of Trustees thereof; providing that such district may have its own Assessor and Collector of Taxes and Board of Equalization; repealing Chapter 94, of the Local and Special Laws, passed by the Third Called Session of the Thirty-sixth Legislature, and Chapter 1, of the Local and Special Laws, passed by the Fourth Called Session of the Thirty-sixth Legislature, and declaring an emergency."

H. B. No. 289, A bill to be entitled "An Act creating the Rowena Independent School District in Runnels County, Texas; defining its boundaries; providing for a Board of Trustees in said district; conferring upon said district and its Boards of Trustees all the rights, powers, privileges and duties now conferred and imposed by the General Laws of Texas upon independent school districts and the Board of Trustees thereof, declaring that all taxes or bonds heretofore authorized by any former school district included within the bounds thereof shall remain in full force and effect; and repealing Act of the Third Called Session of the Thirty-sixth Legislature creating the Rowena Independent School District, and declaring an emergency."

H. B. No. 306, A bill to be entitled "An Act creating the Hontoon Independent School District in Ochiltree County, Texas; defining its boundaries; providing for a Board of Trustees in said district; conferring upon said district and its Board of Trustees all the rights, powers, privileges and duties now conferred and imposed by the General Laws of Texas upon independent school districts and the Board of Trustees thereof; district included within the bounds therefore authorized by any former school district included within the bounds thereof shall remain in full force and effect; and declaring an emergency."

H. B. No. 307, A bill to be entitled "An Act creating the Booker Independent School District out of territory in Lipscomb County, Texas; defining its boundaries, fixing the number of Trustees, providing for their election in accordance with the General Laws of towns and villages incorporated for school purposes, and fixing their powers and duties, and providing for the election of the first Trustees after this Act becomes effective; authorizing the trustees to levy and collect a maintenance tax and to issue bonds for building purposes, and to levy, assess and collect a bond tax providing for elections upon bond and tax propositions and for notice of such elections; prescribing the qualifications of voters at such elections, the form of ballot and for making returns; providing for the appointment of an Assessor and Collector of Taxes, and fixing his powers, duties, bond, and compensation; providing for the collection of delinquent taxes, and for the assessment and collection of taxes by the County Assessor and Collector; applying the General Laws when a matter is not expressly provided for, and declaring an emergency."

H. B. No. 330, A bill to be entitled "An Act creating the Laneville Independent School District of Rusk County; defining its boundaries; vesting it with the rights, powers, duties and privileges of districts incorporated for school purposes only under the General Laws; providing for a Board of Trustees therefor, and declaring an emergency."

H. B. No. 357, A bill to be entitled "An Act to amend Section 12 of Chapter 95 of the Local and Special Laws of the State of Texas, passed at the Regular Session of the Thirty-third Legislature, which was an Act to

create a road system for Navarro County, Texas, so as to more particularly define the membership of the Boards of Permanent Road Commissioners for road districts created in Navarro County, Texas.

H. B. No. 358, A bill to be entitled "An Act to reorganize the Sixty-third and Eighty-third Judicial Districts of the State of Texas, and to prescribe the time and fix the terms of holding the courts in each of said judicial districts; and to conform all writs and process from such courts to such changes; and to make all process issued or served before this Act takes effect, including recognizances and bonds returnable to the terms of the courts in the several districts as herein fixed, and to validate process, and to validate the summoning of grand and petit jurors and juries; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

H. B. No. 363, A bill to be entitled "An Act to create a more efficient and better road system for Brazos County, Texas; making County Commissioners ex-officio Road Commissioners of their respective precincts; prescribing their duties of road overseers; providing a compensation of \$2.00 per day for overseers for each day's service per year in excess of five days; providing certain duties for County Treasurer; providing for summoning of persons liable for road duty; providing that any person liable for road duty any year shall be exempt upon the payment of \$6.00 into the County Treasury; providing for money payment in lieu of work after summons and before date of work; providing for the condemning of any land necessary for road purposes; providing this Act is cumulative of the General Laws, and fixing penalties, and declaring an emergency."

H. B. No. 371, A bill to be entitled "An Act to create and establish the County of Kenedy out of territory taken from the existing Counties of Cameron and Hidalgo; prescribing its area and boundaries; appointing Commissioners to organize said county and prescribing their duties; providing for a division of said county into Commissioners' and Justices' Precincts; providing for the holding of county and precinct elections for the election of county and precinct officers, and for the location of the county seat of said county; providing for the attaching of

said county to the Judicial, Representative, Senatorial and Congressional Districts, and Supreme Judicial Districts; providing for the assessment and collection of taxes, for the defraying of the expenses of organizing said county and for the payment of the proportion of the liabilities of the Counties of Cameron and Hidalgo, chargeable, respectively, on the territory taken from them; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

The House concurs in Senate amendments to H. B. No. 1.

S. B. No. 45, A bill to be entitled "An Act repealing Article 7380, Title 126, Chapter 2, Revised Civil Statutes, 1911, providing for the payment of an occupation tax by individuals, companies, corporations and associations in this State selling pistols, and declaring an emergency," with amendment.

S. B. No. 63, A bill to be entitled "An Act to amend Article 4703 of Chapter 1, Title 70, and Article 5686, Chapter 2, Title 87, of the Revised Statutes of Texas, of 1911, relating to survival of causes of action for personal injuries and injuries resulting in death, and providing for the survival of causes of action for injuries resulting in death where the tortfeasor dies before suit is instituted, and declaring an emergency."

S. B. No. 55, A bill to be entitled "An Act to amend Article 1551, Chapter 9, Title 31, of the Revised Civil Statutes of Texas, of 1911, and also to amend Article 1627, Title 32, Chapter 9, Revised Civil Statutes of Texas, 1911, so as to provide, in substance, that when the judgment of the lower court is affirmed or reversed and rendered, that the Court of Civil Appeals of the Supreme Court in which said suit is pending, shall at the same time render judgment against the party appealing, together with the sureties on the appeal, or supersedeas bond for the amount of the judgment so rendered, and providing that the said court shall make such disposition as to costs as may be deemed proper; to repeal all laws in conflict herewith, and declaring an emergency."

Respectfully submitted.

N. K. BROWN,

Chief Clerk, House of Representatives.

Bills Read and Referred.

The Chair, President Pro Tempore Page, had referred, after their captions had been read, the following House bills:

H. B. No. 188, referred to Committee on Roads, Bridges and Ferries.

H. B. No. 266, referred to Committee on Educational Affairs.

H. B. No. 281, referred to Committee on Educational Affairs.

H. B. No. 289, referred to Committee on Educational Affairs.

H. B. No. 306, referred to Committee on Educational Affairs.

H. B. No. 307, referred to Committee on Educational Affairs.

H. B. No. 330, referred to Committee on Educational Affairs.

H. B. No. 357, referred to Committee on Roads, Bridges and Ferries.

H. B. No. 358, referred to Committee on Judicial Districts.

H. B. No. 363, referred to Committee on Roads, Bridges and Ferries.

H. B. No. 371, referred to Committee on Counties and County Boundaries.

Senate Bill No. 119.

By unanimous consent, asked by Senator Hall, Senate Bill No. 119 was recommitted to Committee on Lands and Land Office.

Simple Resolution No. 56.

Whereas, The members of this body are always glad to hear of the good fortune of fellow-members, and

Whereas, A member of this body has been the recipient not only of good news, but a bouncing baby boy; therefore, be it

Resolved, That the Senate of Texas congratulate Hon. Wm. H. Bledsoe and his wife on the arrival of a boy at their home, and wish for that boy a long, successful and happy life.

Signed: Dudley, Carlock, Lewis, Wood, Parr, Darwin, Baugh, Witt, Harp, Rogers, Murphy, Woods, Switer, McNealus, Watts, Bailey, Hall, Fairchilds, Floyd, Richards, Davidson, Page.

The resolution was read and adopted unanimously.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

S. B. No. 234, A bill to be entitled "An Act to amend Chapter 145, General Laws of the State of Texas passed by the Thirty-sixth Legislature at its Regular Session, which chapter was 'An Act to amend Chapter 1 of Title 44 of the Revised Civil Statutes of the State of Texas, 1911, and to provide the manner in which State funds shall be kept and deposited; to define the State Depository Board and its powers, and what banks may become State Depositories, and the manner and means of selecting and for the qualification of such State Depositories, providing for the distribution of such State funds among such depositories, repealing all laws in conflict, and declaring an emergency'; the effect of this amendment being to add to said Chapter a new Article immediately following Article 2435, which new article is to be known as Article 2435a, and to provide in substance that during the existence of any general financial or industrial depression at the end of any biennial depository period, after new depositories have been selected by the State Depository Board, if it should be found by the State Depository board that any of the then existing old depositories have not been or will not be selected as depositories for the next two-year period under the bids, submitted, and that the withdrawal of the entire amount of State funds in any particular depository on March first will create a demand on such old depository which it will not be able to meet, though otherwise solvent, then the State Depository Board shall have the discretion and authority to extend the time of payment of such funds into the State Treasury from time to time; provided, however, that such extension shall not be made unless and until such old depository executes a new contract and bond or gives security, as in the first instance, for such period of time as the State Depository Board may designate and at such rate of interest as the State Depository Board may find to be not less than the approximate

average rate of interest which the State would receive under the bids submitted for the current biennial depository period into which such extension of time is made; and declaring an emergency."

Respectfully submitted,

N. K. BROWN,

Chief Clerk House of Representatives.

Bills Signed.

The Chair, President Pro Tempore Page, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

S. B. No. 128, A bill to be entitled "An Act abolishing the office of Dairy and Food Commissioner of this State, and conferring the authority, powers, duties, functions, rights and liabilities of said Commissioner upon the State Health Officer of the State, abolishing the Dairy and Food Department of this State and providing that the duties and functions of said department shall hereafter vest in the State Health Officer of this State, making available to the State Health Officer all appropriations heretofore made for the Dairy and Food Commissioner, or the Dairy and Food Department, or the Pure Food and Drug Department of this State, to be used by said State Health Officer in the performance and exercise of the duties, authority, powers and functions herein transferred. Authorizing the State Health Officer to dispense with any employee not needed after the consolidation herein authorized, and rearrange the work and duties of the office to avoid duplication of work, and declaring an emergency."

S. B. No. 179, A bill to be entitled "An Act creating the Luling Independent School District in Caldwell County, Texas; defining its boundaries; providing for a board of trustees in said district, and declaring an emergency."

Executive Message.

Governor's Office.

Austin, Texas, Feb. 18, 1921.

To the Texas State Senate:

Gentlemen: I hereby return to you without my approval Senate Bill No. 65. This Bill requires the giving of additional supersedeas bond, under certain conditions, in cases

pending at this time or hereafter carried by appeal or writ of error to the Supreme Court or the Courts of Civil Appeal, in which a supersedeas bond has been or may be given.

This bill by its terms is made to apply to all cases now pending before the Supreme Court or the Courts of Civil Appeal. It, therefore, by legislative act, changes the present status of litigants. It is retrospective in its effects. It changes the status already fixed by existing laws. Legislation should apply only to the future.

As it applies to cases pending at this time, it has the effect of adding additional burdens to the litigants than those imposed by existing laws at the time the appeal was taken. It appears to me to be retrospective and, therefore, unconstitutional.

Section 2 provides that regardless of the insufficiency of the bond given, and regardless of the party in default failing to comply with the order of the appellate court requiring new bond, still said appeal or writ of error shall not be dismissed, but continued upon the docket as if said cause had been appealed or writ of error granted upon a cost bond. This in effect, makes the appeal effective without the necessity of sufficient bond, thus nullifying the stated purpose of the Act, in Section 1, and takes away from the appellees such protection as the law now affords and repeals by implication the present laws requiring sufficient statutory bond required to be made in appeals of this nature.

For reasons above stated, and for the additional reason that there appears to me that there is a conflict in the legislative intent in Section 1 and Section 2, this bill is hereby vetoed and returned to you with my disapproval.

Respectfully yours,

PAT M. NEFF,

Governor.

On motion of Senator Bailey the above message, and bill, was laid on the table subject to call.

Recess.

On motion of Senator Dudley the Senate, at 5 o'clock p. m., recessed until tomorrow morning at 10 o'clock.

After Recess.

(February 19, 1921.)

The Senate met at 10 o'clock a. m. pursuant to recess, and was called to order by President Pro Tempore Page.

Senate Bill No. 220.

The Chair laid before the Senate on second reading,

S. B. No. 220, A bill to be entitled "An Act creating the Hewitt Independent School District in McLennan County, Texas; defining its boundaries, including the present Hewitt Independent School District; providing for a board of trustees in said school district as herein created, and declaring an emergency."

The committee report was adopted.

The bill was read second time and passed to engrossment.

Senate Bill No. 62.

The Chair laid before the Senate, on third reading,

S. B. No. 62, A bill to be entitled "An Act removing Panola County from the Ninth Supreme Judicial District of Texas to the Sixth Supreme Judicial District, naming the Counties composing each of said districts and providing that the Sixth Supreme Judicial District shall henceforth include the County of Panola."

The bill was read third time and passed finally.

Senate Bill No. 244.

The Chair laid before the Senate on second reading,

S. B. No. 244, A bill to be entitled "An Act to amend Article 1140 and subdivision 8 of Article 1140 of the Revised Statutes of 1911 of the State of Texas, defining the powers of private corporations so as to permit and empower corporations formed under Subdivisions 1, 2 and 3, of Article 1121, of the Revised Statutes of 1911, of the State of Texas to increase the maximum number of the directors or trustees of such corporations from twenty-five to seventy-five."

The bill was read third time and passed to engrossment.

Senate Bill No. 163.

The Chair laid before the Senate, on second reading,

S. B. No. 163, A bill to be entitled "An Act amending Article 4606 of Title 67 of Revised Civil Statutes of Texas, 1911, declaring the eleventh day of November of each year a legal holiday and designating November 11th as 'Victory Day.'"

The bill was read second time and passed to engrossment.

Senate Bill No. 180.

The Chair laid before the Senate on second reading,

S. B. No. 180, A bill to be entitled "An Act to amend Section 1, Chapter 76, General Laws passed at the Regular Session of the Thirty-sixth Legislature, defining what constituted a public weigher, and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill No. 153.

The Chair laid before the Senate on second reading,

S. B. No. 153, A bill to be entitled "An Act to amend Chapter 179 of the General Laws of the State of Texas passed at the Regular Session of the Thirty-third Legislature, as amended by the Acts of the Regular Session of the Thirty-fifth Legislature, Chapter 103, approved March 28th, 1917, by amending Part 1, Section 2, thereof so that the provisions of said Act shall not apply to actions to recover damages for the personal injuries, nor for death resulting from personal injuries sustained by ranch laborers, and declaring an emergency."

The bill was read second time and passed to engrossment.

**Report From Attorney General's
Department Related to Rusk
Steel Plant.**

The following was presented to the Senate by Senator Fairchild, read and directed to be printed in the Journal:

February 18, 1921.

To the Honorable Senate of the State of Texas, Austin, Texas.

Gentlemen: In pursuance of your Simple Resolution No. 46, requesting

the Governor and the Attorney General of the State of Texas, to furnish the Senate with information explaining the status of the State's interest in the iron works at Rusk, and the collateral properties that were formerly a part of the personal system of Texas, including contracts made with payments of money received and balances due the State from the Texas Steel Company or what has been commonly termed the "Featherstone Syndicate." I herewith take pleasure in stating to you all of the information known by the Attorney General's Department.

The Legislature by House Concurrent Resolution No. 22, of the Thirty-fifth Legislature authorized the sale of the State's iron industry at Rusk, on such terms as will justify the purchase, rehabilitation and operation of same by any person, firm or corporation of Texas, who will agree to give a good and sufficient bond in the sum of \$100,000.00 make pay for rehabilitation, and put in operation the blast furnace, the cast iron pipe plant and the foundry in the said Rusk penitentiary, within a reasonable time from the date of the sale thereof, and to operate said industries for at least one full year. This sale shall include such iron ore land and iron ore rights and land needed for the plant, its improvement and expansion as may be deemed advisable, also the use of the water reservoir pipe line, ore bed, railroad right of way, industrial sidings, and switching easement rights and privileges belonging to or to which the State is entitled for the uses and purposes of said iron industry and all other property of every kind belonging to or used in connection with said iron industry.

In accordance with said resolution a sale was made to L. P. Featherstone of Beaumont, Texas, in consideration of \$28,125 cash and three notes for the sum of \$28,125 each, payable March 16, 1921, September 16, 1921, and March 16, 1922, bearing interest at 6 per cent.

Whereas, it was discovered that Governor W. P. Hobby owned \$500 of stock in the Texas Steel Company, of which Mr. L. P. Featherstone was president. The Legislature passed Senate Concurrent Resolution No. 10 authorizing the contract to be consummated. The Senate Concurrent Resolution of the Thirty-fifth Legis-

lature filed in the Secretary of State's office April 3, 1918, without the Governor's approval this concurrent resolution authorizing the Lieutenant Governor of Texas to act in place of the Governor. A bond in the terms and conditions and for the amount specified by the Legislature was accepted, signed by S. G. Burnet, C. T. Heisig, Hal G. Land, J. Rosenthal, John L. Keith, B. A. Steinhagen, Ed Paggi and H. A. Perlstein.

House Concurrent Resolution No. 43 passed by the Thirty-fifth Legislature and approved March 15, 1919, provided for the strict compliance of the contract and that one-fourth of said contract price should be paid on or before the first day of July 1919 and provided that upon the filing and approval of the bond as is required and payment of one-fourth of the purchase price. The Governor or Lieutenant Governor is authorized to convey said property to the said L. P. Featherstone provided in House Concurrent Resolution No. 22, passed by the Thirty-fifth Legislature and approved April 4, 1917.

The Legislature again put House Concurrent Resolution No. 11 approved, filed in the office of Secretary of State, July 16, 1919, requesting that the Governor and Prison Commission extend the time for the compliance of the contract between the State and Col. L. P. Featherstone to January 1, 1920, in order that reasonable time may be given to adjust freight rates and resume the operation of said plant on a paying basis.

Within the last month, complaint was made to Governor Hobby, by citizens of Rusk to the effect that the plant properties were being dismantled and destroyed. This matter was referred to the Attorney General's Department for investigation, by Governor Hobby. The writer proceeded to Rusk for the purpose of making an inspection and found that the property had been transferred by L. P. Featherstone to the Texas Steel Company by a contract which was placed on record in Cherokee County, Texas. This contract, however, did not specifically provide that the Texas Steel Company would assume and carry out the contract of L. P. Featherstone. After the sale of properties to the Texas Steel Company, this company went into the hands of a receiver and the re-

ceiver was in charge of the properties at the time the writer made an inspection of same, and had an order of the District Court of Beaumont, Texas, authorizing him to destroy and sell for junk the pipe plant. This plant was practically destroyed at the time the writer visited Rusk, but this explanation was made by the receiver in charge: That the pipe plant and all machinery connected therewith was obsolete and was impossible to use advantageously in the rehabilitation of the industry; that the method employed by making pipe at the time this plant was installed was not in use at this time in up to date iron works; that the destruction of this plant was merely to get ready to install up to date pipe making machinery and devices. The receiver declared that the blast, engines and machinery and other machinery of the plant was in good condition.

I was informed that the company was delinquent in tax payments to the amount of something like three thousand dollars. I am stating the amount from memory and the statement of same may not be accurate, at any rate there were delinquent the taxes for about three years. The next note due on the properties will be \$28,125 due March 16, 1921. The receiver declared that the company would be in position to discharge this obligation when it matured.

Among the conveyances affecting this property, I should have mentioned above, a mortgage which has been executed by the Texas Steel Company. The exact terms of this mortgage I can not state from memory but it is for advance money used in an effort to rehabilitate the plant. I ordered copies of all of these instruments sent to the Prison Commission at Huntsville. All of the original title papers affecting this transaction are in the files of the Prison Commission at Huntsville. There is no record or memoranda in this department, except such as I have secured for the purpose of answering your inquiry.

If I have omitted making any statement about which you would like to be informed and it should be in my power to operate same, I will appreciate the opportunity to do so.

Yours very sincerely,

W. A. KEELING,
Acting Attorney General.

House Bill No. 158.

The Chair laid before the Senate on second reading,

H. B. No. 158, A bill to be entitled "An Act making appropriations to cover authorized deficiencies in appropriations heretofore made for the support of the State Government for the fiscal years ending August 31, 1920, and August 31, 1921, respectively, and declaring an emergency."

The committee report, that the bill be not printed, was adopted.

The bill was read second time and passed to a third reading.

House Bill No. 320.

The Chair laid before the Senate, on second reading,

H. B. No. 320, A bill to be entitled "An Act to amend Sections 4, 40, 66, 80, 81, 82 and 100 of Chapter 87, Acts of the Regular Session of the Thirty-fifth Legislature, providing for organization and government of water improvement and irrigation districts, and Acts amendatory of said Chapter 87, including Chapter 53 of the General Laws of the Fourth Called Session of the Thirty-fifth Legislature, and Chapter 28, General Laws of the Second Called Session of the Thirty-sixth Legislature, and which sections relate, respectively: Section 4, to the mode of appeal from an order of the commissioners' court in granting or dismissing petition for organization of a district; Section 40, the collection of delinquent taxes by suit, and fixing jurisdiction thereof; Section 66, providing for the sale of bonds of such district; Sections 80, 81 and 82, providing the method of organization of districts embracing lands in two or more counties; and Section 100, providing the method of the selection of depositories of such district; and which amendments to said Sections 4, 40, 66, 80, 81, 82 and 100 provide, respectively: Section 4, for appeals from an order of the county commissioners' court in granting or refusing a petition for organization of a district, and that notice of appeal shall be given, and perfecting of appeal by filing of a bond at the time of filing same, and fixing amount of such bond, and providing that the judgment on appeal shall be certified to the commissioners' court

within ten days after same becomes final; Section 40, for providing taxes to be a lien against property assessed, and enforcement of same, suits for collecting, vesting jurisdiction in district court, and providing no limitation shall apply; Section 66, for providing the method of selling bonds of the district authorized by said Chapter 87, and the amount to be received therefor; Sections 80, 81 and 82, for providing the method of organization and government of districts embracing lands in two or more counties; Section 100, for the selection of depositories of any such district, and providing that if directors of said district should be interested in a bank bidding therefor, such selection shall be passed upon by the county judge of the county in which the depository is located; and by further amending said Chapter 87, General Laws of the Acts of the Regular Session of the Thirty-fifth Legislature and Acts amendatory of said Chapter 87, including Chapter 53 of the General Laws of the Fourth Called Session of the Thirty-fifth Legislature, and Chapter 28, General Laws of the Second Called Session of the Thirty-sixth Legislature, by the addition of new sections, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, and 137, which new sections provide, respectively; Section 122, for the addition of land to a district to be taxed on basis of assessment of benefits; Section 123, for location of office of a district; Sections 124 to 130, inclusive, for the method of levying, assessing, equalizing, and collecting taxes by districts, adopting the assessment for benefit plan of taxation; Section 131, for providing for districts constituting conservation and reclamation districts adopting plan of levying taxes on a benefit basis instead of an ad valorem basis; Section 132, for providing for levy and collection of taxes on a benefit basis instead of an ad valorem basis by districts operating under contract with the United States, and the method of levying and collecting same; Section 133, for providing for sale of power privileges by such districts and the conditions thereof; Section 134, providing for assessment and collection of taxes by county officers in event of default therein by district officers, and providing district may avail itself of assessments

and equalization made by county officers, and providing the method of handling same; Section 134, providing for sale of surplus water; Section 135, repealing Section 5a, Chapter 12, General Laws, Second Called Session, Thirty-fifth Legislature, and all laws in conflict with the provisions thereof; Section 137, emergency clause."

The bill was read second time and passed to a third reading.

Bills and Resolutions.

(By Unanimous Consent.)

By Senator Carlock:

S. B. No. 276, A bill to be entitled "An Act to require the giving of additional supersedeas bond in cases pending on appeal or writ of error in the Supreme Court or Court of Civil Appeals wherever after the execution of the original bond, the same becomes insufficient by reason of the insolvency of the sureties on such bond or from any other cause and providing that failure to execute a new supersedeas bond within twenty (20) days after service of notice to execute such bond, should authorize the court in which said case is pending on appeal, to order the issuance of execution on the original judgment; and further providing that the said appeal or writ of error should be continued as if prosecuted upon the cost bond, in the event that the original supersedeas bond should be deemed sufficient for said purpose by the clerk in which said appeal is pending; otherwise to be dismissed unless a sufficient cost bond is given within a stated period; to repeal all laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senators Dudley and Carlock:

S. B. No. 277, A bill to be entitled "An Act to fix the salary and compensation of the Superintendent of the Confederate Woman's Home, and to repeal all laws in conflict herewith, and declaring an emergency."

Read the first time and referred to Committee on Finance.

Senate Bill No. 122.

Senator McNealus asked unani-

mous consent to take up S. B. No. 122, known as the "boxing bill."
Senator Suiter objected.

Senate Bill No. 45.

Senator Darwin called up S. B. No. 45, and moved that the Senate concur in the following House amendments:

Amend the bill by striking out everything after the enacting clause in Senate Bill No. 45 and insert the following:

Section 1. That Article 7380 of the Revised Civil Statutes of Texas 1911 be amended so as to hereafter read as follows:

Article 7380. That every firearms dealer who may hereafter barter, exchange, lease or sell pistols by retail, shall keep a record of all pistols so bartered, exchanged, leased or sold, such record to show the number of pistol, name of the manufacture, date of the transaction, name of the salesman, and name and address of the purchaser, and which record shall be accessible to any grand jury or prosecuting attorney; provided that no person shall knowingly sell or rent any pistol to a minor or person under the heat of passion or display pistols for sale in any show window; and any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor, and upon conviction punished by a fine of not less than \$10.00 nor more than \$200.00 for each offense.

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Section 3. That due to the fact that the present law favors foreign catalogue houses over Texas merchants and is hurting the business of our home people, creates an emergency and an imperative public necessity, requiring that the constitutional rule requiring bills to be read on three separate days be, and the same is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Amend the bill by striking out the caption and inserting the following:

A BILL

To Be Entitled

An Act to amend Article 7380 of the Revised Civil Statutes of Texas

(1911) by requiring firearms dealers to keep record of the sale of pistols, prohibiting sale or lease to minors or persons under the heat of passion, or displaying pistols in show windows, providing penalty and declaring an emergency.

The motion to concur in the House amendments was adopted.

Senate Bill No. 92.

Senator Woods here moved that S. B. No. 92 be re-referred to Committee on Criminal Jurisprudence.

The motion was adopted.

House Bill No. 118.

The Chair laid before the Senate on second reading,

H. B. No. 118, A bill to be entitled "An Act to put into effect the amendment to Section 3 of Article 7 of the Constitution of the State of Texas, in accordance with the will of the people as expressed by vote in the General Election held on November 2nd, 1920."

The committee report was adopted.

The bill was read second time and passed to engrossment.

Bills Signed.

The Chair (Pres. Pro. Tem. Page) gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

S. B. No. 63, A bill to be entitled "An Act to amend Article 4703 of Chapter 1, Title 70, and Article 5686, Chapter 2, Title 87, of the Revised Statutes of Texas of 1911, relating to Survival of Causes of Action for Personal Injuries and Injuries Resulting in Death, and Providing for the Survival of Causes of Action for Inquiries Resulting in Death where the tort-feasor dies before suit is brought.

S. B. No. 55, A bill to be entitled "An Act to amend Article 1551, Chapter 9, Title 31, of the Revised Civil Statutes of Texas, of 1911, and also to amend Article 1627, Title 32, Chapter 9, Revised Civil Statutes of

Texas, 1911, so as to provide, in substance, that when the judgment of the lower Court is affirmed or reversed and rendered, that the Court of Civil Appeals or the Supreme Court in which said suit is pending, shall at the same time render judgments against the party appealing, together with the sureties on the appeal, or supersedeas bond for the amount of the judgment so rendered, and providing that the said Court shall make such disposition as to costs as may be deemed proper; to repeal all laws in conflict herewith, and declaring an emergency."

Adjournment.

On motion of Senator Richards the Senate, at 11:30 o'clock a. m. adjourned until 10 o'clock Monday morning.

APPENDIX.

Petitions.

The Chair, Senator Page, offered and had read a telegram from the Heads of State Orphans Home at Corsicana, Masonic Home, Odd Fellows Home, Buckner's Orphan Home, Juliette Fowler Home, Baptist Orphanage, and Methodist Orphanage, requesting Texas Legislature to remedy, by legislative action, the lax divorce laws of the State.

Senator McNealus offered and had read a telegram from Dallas School Board urging support of school measures, pending in House and Senate.

Referred to Committee on Educational Affairs.

Also telegram from Love Field Industrial District asking some amendment of Incorporation Laws.

Referred to Committee on State Affairs.

Committee Reports.

Committee Room,

Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 267. A bill to be entitled "An Act to direct the Prison Com-

mission to sell the Texas State Railway in whole or in part; to make an appropriation from the General Revenue to redeem bonds with accrued interest, of the said railroad held by the permanent public free school fund against the railroad, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

CARLOCK, Chairman.

Committee Room,

Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 264, A bill to be entitled "An Act to amend Article 6278 of Chapter 2 of Title 105 of the Revised Civil Statutes of the State of Texas of 1911, denying payment of pensions to those otherwise entitled to same, while inmates of the Texas Confederate Home, or while confined in any of the asylums of this State, at the expense of the State, or while confined in the State penitentiary to satisfy a judgment of conviction, so as to provide that inmates of the Confederate Home, and inmates of the Confederate Woman's Home, shall be entitled to receive pension payments equal to one-half the amount they would be entitled to receive if they were not inmates of such home, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

CARLOCK, Chairman.

Committee Room,

Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, the majority of your Committee on State Affairs, to whom was referred

S. B. No. 256. A bill to be entitled "An Act to amend Article 3893 of Chapter 4, of Title 58, Revised Civil Statutes of 1911, as amended by Section 1, Chapter 121, of the General Laws passed by the Regular session of the Thirty-third Legislature, relating to fees of office, pro-

viding that the commissioners' court shall allow compensation for ex-officio services where officers fail to reach their maximum, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

CARLOCK, Chairman.

Committee Room,
Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 200, A bill to be entitled "An Act providing that the Secretary of State may charge, as fee of his office, a sum for investigations made by employees of that Department and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

CARLOCK, Chairman.

Committee Room,
Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 221, A bill to be entitled "An Act to amend Subdivision 60 of Article 1121, of Chapter 2, Title 25, Revised Civil Statutes of Texas, 1911, so as to permit corporations, chartered under the provision of said subdivision to also acquire, hold and operate motor vehicles, either with or without tracks, for the transportation of freight or passengers for hire, from and to any point or points in and adjacent to the city or towns within and through which said company operates,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

CARLOCK, Chairman.

Committee Room,
Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Enrolled Bills have carefully compared

Senate Bill No. 128, and find same to be correctly enrolled, and have this day at — o'clock — m. presented the same to the Governor for his approval.

DARWIN, Chairman.

Committee Room,
Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Enrolled Bills have carefully compared Senate Bill No. 170, and find the same to be correctly enrolled and have this day, at 12 o'clock m., presented the same to the Governor for his approval.

DARWIN, Chairman.

Committee Room,
Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Judicial Districts, to whom was referred

S. B. No. 213, A bill to be entitled "An Act to amend Sections 1 and 7, of Chapter 13, of the Special Laws of the Twenty-ninth Legislature creating a more efficient road system for Caldwell County, Texas, and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass, and that it be not printed.

RICHARDS, Chairman.

Senate Chamber,
Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Bill No. 136 carefully compared and find same to be carefully engrossed.

HARP, Chairman.

Senate Chamber,
Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Engrossed Bills have had Senate Bill No. 142 carefully compared and find same to be correctly engrossed.

HARP, Chairman.

Committee Room.

Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 251, A bill to be entitled "An Act to amend Chapter 69 of Special Laws passed at the Regular Session of the Thirty-second Legislature, 1911, and approved by Governor on March 23rd, 1911, which said Act was amended at the Regular Session of the Thirty-fifth Legislature, 1917, by Chapter 66 of the Special Laws of said Thirty-fifth Legislature, and approved by the Governor on the 26th day of March, 1917, and being an Act entitled 'An Act incorporating the Winnsboro Independent School District in Wood and Franklin Counties, Texas, for free school purposes only, defining its boundaries, providing for a Board of Trustees, divesting the city of Winnsboro of the control of its public schools and title to school property and vesting the same in said Winnsboro Independent School District, and its Board of Trustees, prescribing the rights, powers, privileges and duties of Trustees, and declaring an emergency,' by more clearly defining its boundaries and providing the date on which the fiscal year begins and ends, and the date on which taxes unpaid shall become delinquent, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and be not printed.

WITT, Chairman.

Committee Room.

Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred

S. B. No. 201, A bill to be entitled "An Act making it unlawful to conduct or manage any pharmacy, drug or chemical store, apothecary shop, or other place of business for retailing, compounding, or dispensing of any drug, chemical or poison, or for compounding a physician's prescription, or to keep exposed for sale at retail any drug, chemical, poison, patent or proprietary preparations, except under the supervision of a person licensed as a pharmacist, and exempting persons operating businesses in cities or towns

of 2,000 inhabitants from the requirements thereof; and providing penalties, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

HALL, Chairman.

Committee Room,

Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Public Health, to whom was referred

S. B. No. 266, A bill to be entitled "An Act providing for the construction, equipment and maintenance of a building in connection with the Texas School for the Blind, to accommodate, educate and take care of blind children or children with defective eye sight under the age of children which may be admitted into the Texas School for the Blind under the present laws; providing for the operation, support and maintenance of such addition to the Texas School for the Blind and making an appropriation for said purposes, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

HALL, Chairman.

Committee Room,

Austin, Texas, Feb. 19, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 276,

Have had same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and be printed in the Journal.

BAILEY.

Following is the bill in full:

By Carlock.

S. B. No. 276.

A BILL To Be Entitled

An Act to require the giving of additional supersedeas bond in cases pending on appeal or writ of error in the Supreme Court or Court of Civil Appeals, wherever after the execution of the original bond, the

same becomes insufficient by reason of the insolvency of the sureties on such bond or from any other cause and providing that failure to execute a new supersedeas bond within twenty (20) days after service of notice to execute such bond, should authorize the court in which said case is pending on appeal, to order the issuance of execution on the original judgment; and further providing, that the said appeal or writ of error should be continued as if prosecuted upon the cost bond, in the event that the original supersedeas bond should be deemed sufficient for said purpose by the clerk in which said appeal is pending; otherwise, to be dismissed unless a sufficient cost bond is given within a stated period; to repeal all laws in conflict herewith and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. In all cases hereafter carried by appeal or writ of error from the District or County Court to the Court of Civil Appeals or to the Supreme Court, in which a supersedeas bond shall be given, and whenever the said bond shall become insufficient by reason of the insolvency of the sureties on such bond, or from any other cause, it shall be the duty of the Court in which the said appeal or writ of error is pending, upon proper showing of such insufficiency being made, to require the giving of additional supersedeas bond in like amount as the original, to be approved by the clerk of the Court in which said appeal or writ of error is pending.

Section 2. In case of failure to comply with the rule of the Court ordering the execution of said additional supersedeas bond within a period of twenty (20) days after such order is served, the Court in which said appeal or writ of error is pending shall issue an order to the trial court, directing or permitting the issuance of execution on the judgment appealed from; but said appeal or writ of error shall not be dismissed, but continued upon the docket as if said cause had been appealed or writ of error granted upon cost bond, provided the clerk of the court in which said appeal or writ of error is pending is satisfied that the said original bond is still sufficient when consid-

ered as a cost bond. But in the event that the said clerk shall consider the said original supersedeas bond insufficient as a cost bond, then the said appeal or writ of error shall be dismissed, unless the appellant or the plaintiff in error shall within twenty (20) days after notice served by the clerk that the said bond is deemed insufficient for the purposes of the cost bond, shall execute a new bond satisfactory to the said clerk, sufficient to secure the payment of the costs theretofore accrued, or that might thereafter accrue in the further prosecution of the said appeal or writ of error; the giving of said additional original bond or bonds shall not release the liability of the sureties on the original supersedeas bond.

Section 3. If any paragraph, subsection or section or part of this law shall be held unconstitutional, such invalidity shall not affect any other part of this Act not subject to like objections.

Section 4. All laws in conflict herewith are hereby repealed.

Section 5. The fact that there is now no law in force in Texas adequately protecting the rights of litigants, where appeals or writs of error are prosecuted on supersedeas bonds, when after the perfecting of such appeal, the sureties on such supersedeas bonds may become insolvent, and by reason of such omission manifest injustice frequently results to litigants, creates an imperative public necessity that the constitutional rule requiring bills to be considered on three separate days should be suspended, and said rule is hereby suspended, and this Act shall take effect from and after its passage, and it is hereby so enacted.

(Floor Report.)

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Roads, Bridges and Ferries, to whom was referred S. B. No. 255, being a local road law for Wood County, Texas,

Have had the same under consideration and beg leave to report the same back to the Senate with recommendations that it do pass and be not printed.

Davidson, Woods, Floyd, Dudley.

Committee Room,
Austin, Texas, Feb. 18, 1921.
Hon. Lynch Davidson, President of
the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 223, A bill to be entitled "An Act to amend Article 4694 of the Revised Civil Statutes of the State of Texas, of 1911, as amended by Chapter 143 of the Acts of the Regular Session of the Thirty-third Legislature, approved April 7th, 1913, by giving a cause of action for injuries resulting in death against, (1) any person, association of persons, joint stock company, corporation, trustee or receiver, (2) the proprietor, owner, charterer, hirer, trustee, receiver, or other operator of an industrial or public utility plant, railroad, street railway, steamboat, stage coach, or other vehicle for the conveyance of goods or passengers, or any other machinery, where such injuries result from the negligence, wrongful act, neglect, unskillfulness, unfitness, or default of such person, association of persons, joint stock company, corporation, trustee, receiver, owner, charterer, hirer, or operator, his, its or their agents, or servants; providing that no agreement between an owner and any lessee, trustee, or other operator of any vehicle for the transportation of passengers or goods, or any industrial or public utility plant, or other machinery, shall release such owner, lessee, trustee or other person from any liability fixed by the provisions of this Act; repealing all laws in conflict herewith, providing that the invalidity of any provisions hereof shall not affect the remaining provisions, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate, with the recommendation that it do pass, with the following committee amendment:

Amend the caption of the bill so as to read as follows:

"An Act to amend Article 4694, Revised Civil Statutes of the State of Texas of 1911, as amended by Chapter 143 of the Acts of the Regular Session of the Thirty-third Legislature, approved April 7th, 1913, by giving a cause of action for injuries resulting in death against (1) any person, association of persons, joint stock company, corporation, trustee

or receiver; (2) the proprietor, owner, charterer, hirer, trustee, receiver or other operator of any industrial or public utility plant, railroad, street railway, steamboat, stage coach, or other vehicle for the conveyance of goods or passengers, or any other machinery, where such injuries result from the negligence, wrongful act, neglect, unskillfulness, unfitness or default of such person, association of persons, joint stock company, corporation, trustee, receiver, owner, charterer, hirer, or operator, his, its or their agents or servants; providing that no agreement between an owner and any lessee, trustee, receiver, corporation, or other operator of any vehicle for the transportation of passengers or goods, or any industrial or public utility plant, or other machinery shall release such owner, lessee, trustee, receiver, corporation, or other person from any liability fixed by the provisions of this Act; repealing all laws in conflict herewith, providing that the invalidity of any provisions hereof shall not affect the remaining provisions, and declaring an emergency."

BAILEY, Chairman.

Committee Room,
Austin, Texas, Feb. 18, 1921.
Hon. Lynch Davidson, President of
the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred H. B. No. 327, A bill to be entitled "An Act to amend Section 3 of Chapter 91 of the General Laws of the State of Texas, passed by the Thirty-fifth Legislature at its Regular Session; to fix the time for holding the terms of the District Court in the various counties composing the Eighty-first Judicial District of Texas; to repeal all laws and parts of laws in conflict with this Act,"

Have had the same under consideration, and I am instructed to report the same back to the Senate, with the recommendation that it do pass, and be not printed.

BAILEY, Chairman.

Committee Room,
Austin, Texas, Feb. 18, 1921.
Hon. Lynch Davidson, President of
the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 270, A bill to be entitled "An Act requiring every person driv-

ing a motor vehicle or motorcycle when approaching the intersection of any public street or highway with the track of any steam railroad or interurban railroad, when said street or highway crosses such track at grade, to bring such vehicle to a full stop at not less than fifteen feet nor more than fifty feet from the place of crossing, and to look and listen for approaching trains before proceeding across such crossing; providing that this Act shall not apply to intersections within incorporated cities and towns having 10,000 or more inhabitants according to the last United States census, nor to crossings over which not more than two trains each way are run daily; nor shall this Act apply to a crossing where the view of the tracks for a distance of at least two hundred (200) yards on either side of such crossing is clear and unobstructed to a person approaching the same at a distance of one hundred (100) feet from such crossing; making it a misdemeanor to violate this Act and providing punishment therefor; providing that contributory negligence of persons injured at such crossings shall not defeat recovery and that damages shall be diminished in proportion to amount of negligence attributable to such person; providing for the repeal of Section 17 of Chapter 207 of the General Laws of the Regular Session of the Thirty-fifth Legislature, as officially published, relating to the reduction of the speed of motor vehicles and motorcycles when approaching the intersection of public streets or highways with the track of steam railroads or interurban railroads under circumstances therein mentioned and for the repeal of so much of Chapter 31 of the officially published General Laws of the First Called Session of the Thirty-fifth Legislature and so much of Chapter 13 of the officially published General Laws of the Third Called Session of the Thirty-fifth Legislature as make it a misdemeanor to violate said Section 17 of said Chapter 207 of the General Laws of the Thirty-fifth Legislature and prescribe punishment therefor; authorizing peace officers to make arrests for violations of this Act committed within their view or presence; and declaring an emergency."

Have had the same under consideration, and I am instructed to report

the same back to the Senate, with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 190, A bill to be entitled "An Act to amend Article 4694 of the Revised Civil Statutes of 1911 so as to give cause of action for actual damages where injuries resulting in death are caused by the negligence, or carelessness of any other person, firm, municipal or other corporation, association or receiver, their agents or servants; the liability of receivers to exist in all cases where the person, firm, municipal or other corporation, or association would have been liable under this or any previous Act had there been no receiver, repealing all laws in conflict, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate, with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: The majority of your Committee on Constitutional Amendments to whom was referred

House Joint Resolution No. 9, relating to the amending of Article 8, Section 14, of the Constitution of the State of Texas,

Has had same under consideration, and I am instructed by the committee to report it back to the Senate with the recommendation that it do not pass, but in lieu thereof the Senate substitute therefor, submitted herewith, be passed.

WOODS, Chairman.

Committee Room,

Austin, Texas, Feb. 18, 1921.

Hon. Lynch Davidson, President of the Senate.

Sir: We, a minority of your Committee on Constitutional Amendments, to whom was referred

House Joint Resolution No. 9, relating to the amendment of Article 8, Section 14, of the Constitution of the State of Texas,

Have had same under consideration, and we beg to report same back to the Senate with the recommendation that it do not pass.

BLEDSOE.

Committee Room,
Austin, Texas, Feb. 18, 1921.
Hon. Lynch Davidson, President of the Senate.
Sir: Your Committee on Constitutional Amendments to whom was referred

House Joint Resolution No. 11, proposing to amend Section 51, Article 3 of the Constitution of the State of Texas,

Has had same under consideration and I am instructed to report same back to the Senate with the recommendation that it do pass with committee amendment submitted herewith.

WOODS, Chairman.

Committee Room,
Austin, Texas, Feb. 18, 1921.
Hon. Lynch Davidson, President of the Senate.
Sir: Your Committee on Constitutional Amendments to whom was referred

House Joint Resolution No. 12, proposing an amendment to Section 13, Article 8 of the Constitution of the State of Texas,

Has had same under consideration, and I am instructed to report to the Senate the recommendation that it do pass with committee amendment.

WOODS, Chairman.

THIRTIETH DAY.

Senate Chamber,
Austin, Texas,
Monday, Feb. 21, 1921.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tempore Page.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Davidson.
Baugh.	Dudley.
Bledsoe.	Fairchild.
Buchanan.	Floyd.
Carlock.	Hall.
Clark.	Hertzberg.
Darwin.	Lewis.

McMillin.	Suiter.
McNealus.	Watts.
Murphy.	Williams.
Page.	Witt.
Parr.	Wood.
Richards.	Woods.
Rogers.	

Absent.

Cousins.	Harp.
Dorough.	Russell.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator McNealus.

See appendix for petitions and committee reports.

Bills and Resolutions.

By Senators Page, Dudley and Lewis:

S. B. No. 278, A bill to be entitled "An Act making an appropriation of Five Hundred Fifty Thousand (\$550,000.00) Dollars out of funds in the State Treasury not otherwise appropriated, to the Prison Commission of the State of Texas for the purpose of paying the operating expenses of said Prison Commission during the remainder of the present fiscal year and the purchase price of the Blue Ridge Farm and other indebtedness incurred by said Commission under authority of law; providing for the return to the State Treasury of the amounts unused by it out of this appropriation; and declaring an emergency."

Read first time and referred to Committee on Finance.

By Senator Fairchild:

S. B. No. 279, A bill to be entitled "An Act making an appropriation to pay witness fees due and owing by the State to in-county witnesses incurred under S. B. No. 126, Chapter 150, Regular Session Thirty-third Legislature, and H. B. No. 13, First Called Session Thirty-third Legislature, Chapter 13, and declaring an emergency."

Read first time and referred to Committee on Finance.

By Senator Carlock:

S. B. No. 280, A bill to be entitled "An Act to amend Article 610, Chapter 1, Title 18, of the Revised Civil